

Senate Bill No. 913

CHAPTER 256

An act to amend Section 739 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 6, 2011. Filed with
Secretary of State September 6, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 913, Pavley. Juvenile offenders: medical care.

Under existing law, when a minor is taken into temporary custody and is in need of medical, surgical, dental, or other remedial care, the probation officer may authorize the performance of that care, as specified. Existing law requires the probation officer to notify the minor's parent or guardian prior to the provision of the medical care.

This bill would additionally permit a probation officer to authorize a medical exam that complies with the regulations promulgated by the Corrections Standards Authority, without regard to the minor's need for medical care. The bill would also permit the probation officer to authorize the performance of reasonable medical or dental care if the minor is in need of the care and upon the recommendation of the attending physician or dentist, as specified. The bill would permit the probation officer to authorize additional treatment necessary for the health of the minor and recommended by the physician if the minor remains in the temporary custody of the probation officer. This bill would also require the probation officer to make reasonable efforts to notify and obtain the consent of the minor's parent or guardian prior to the provision of the medical or dental care.

The people of the State of California do enact as follows:

SECTION 1. Section 739 of the Welfare and Institutions Code is amended to read:

739. (a) Upon referral to the probation officer of a minor who has been taken into temporary custody under Section 625, the probation officer may authorize a medical examination that complies with regulations adopted by the Corrections Standards Authority. If the minor is retained in custody by the probation officer, and prior to the court detention hearing required under Section 632, the probation officer may authorize medical or dental treatment or care based on the written recommendation of the examining physician and considered necessary for the health of the minor. No treatment or care under this subdivision may be authorized by the probation officer unless the probation officer has made a reasonable effort to notify and to obtain

the consent of the parent, guardian, or person standing in loco parentis for the minor, and, if the parent, guardian, or person standing in loco parentis objects, the treatment or care shall be given only upon order of the court in the exercise of its discretion. The probation officer shall document the efforts made to notify and obtain parental consent under this subdivision and shall enter this information into the case file for the minor.

(b) Whenever it appears to the juvenile court that any person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the remedial care or treatment for that person, the court, upon the written recommendation of a licensed physician and surgeon or, if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person.

(c) Whenever a person is placed by order of the juvenile court within the care and custody or under the supervision of the probation officer of the county in which the person resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the person, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the probation officer may authorize the medical, surgical, dental, or other remedial care for the person by licensed practitioners, as may from time to time appear necessary.

(d) (1) Whenever it appears that a minor otherwise within subdivision (a), (b), or (c) requires immediate emergency medical, surgical, or other remedial care in an emergency situation, that care may be provided by a licensed physician and surgeon or, if the minor needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a probation officer. If the minor needs foot or ankle care within the scope of practice of podiatric medicine, as defined in Section 2472 of the Business and Professions Code, a probation officer may authorize the care to be provided by a podiatrist after obtaining the advice and concurrence of a physician and surgeon. The probation officer shall make reasonable efforts to obtain the consent of, or to notify, the parent, guardian, or person standing in loco parentis prior to authorizing emergency medical, surgical, dental, or other remedial care.

(2) For purposes of this subdivision, “emergency situation” means a minor requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease that, if not immediately diagnosed and treated, would lead to serious disability or death. An emergency situation also includes known conditions or illnesses that, during any period of secure detention of the minor by the probation officer,

require immediate laboratory testing, medication, or treatment to prevent an imminent and severe or life-threatening risk to the health of the minor.

(e) In any case in which the court orders the performance of any medical, surgical, dental, or other remedial care pursuant to this section, the court may also make an order authorizing the release of information concerning that care to probation officers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the minor under order, commitment, or approval of the court.

(f) Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the minor by order of the court, in providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.

(g) The parent of any person described in this section may authorize the performance of medical, surgical, dental, or other remedial care provided for in this section notwithstanding his or her age or marital status. In nonemergency situations the parent authorizing the care shall notify the other parent prior to the administration of the care.

(h) Nothing in this section shall be construed to interfere with a minor's right to authorize or refuse medical, surgical, dental, or other care when the minor's consent for care is sufficient or specifically required pursuant to existing law, or to interfere with a minor's right to refuse, verbally or in writing, nonemergency medical and mental health care.